

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JENI MARIA SYLCOX,

Plaintiff,

-against-

CAROLYN W. COLVIN, acting
Commissioner of Social Security,

Defendant.

USDC SDNY
DOCUMENT
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DOC #:
DATE FILED: 9-15-15

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

14 Civ. 2161 (PAC) (HBP)

PAUL A. CROTTY, United States District Judge:

Plaintiff Jeni Maria Sylcox alleges that she suffers from numerous physical ailments that entitle her to Supplemental Security Income benefits. She now seeks judicial review of a final decision of the Commissioner of Social Security, which denied her application for disability benefits. She moves for judgment on the pleadings, and the Commissioner cross-moves for judgment on the pleadings.


On August 13, 2015, Magistrate Judge Henry Pitman issued a Report and Recommendation ("R & R") on both motions. Magistrate Judge Pitman recommends granting Plaintiff's motion "to the extent of remanding this matter for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g)." R & R at 2. This is because the Commissioner's Administrative Law Judge ("ALJ") erred by giving too much weight to the single decision maker's ("SDM") assessment and by failing to recontact one of Sylcox's treating physicians, Dr. Lasky, to fully develop the record. R & R at 33, 38. Magistrate Judge Pitman finds that remand is necessary "for the ALJ to reassess the evidence, keeping in mind that the SDM assessment is not a medical opinion." R & R at 33. The R & R also finds inaccuracies in the ALJ's credibility analysis and that remand is necessary for the ALJ to reassess Sylcox's credibility. R & R at 43-

44. Magistrate Judge Pitman notes that on remand, the ALJ will need to reassess Sylcox's residual functional capacity, and may need to obtain additional vocational expert testimony. R & R at 40, 45-46.

The Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where neither party has made written objections to the report, the Court may adopt the report "so long as there is no clear error on the face of the record." *Feehan v. Feehan*, 2011 WL 497776, at *1 (S.D.N.Y. Feb. 10, 2011). The parties had fourteen days after being served with the R & R to file written objections. Having failed to file any objections, the parties have waived the right to object. *Grady v. Conway*, 2015 WL 5008463, at *3 (S.D.N.Y. Aug. 24, 2015).

Accordingly, the Court reviews the R & R for clear error and finds none. The Court adopts Magistrate Judge Pitman's R & R in its entirety, grants Plaintiff's motion for judgment on the pleadings, denies the Commissioner's motion for judgment on the pleadings, and remands this matter for further proceedings before the Social Security Administration. The Clerk of the Court is directed to enter judgment and close this case.

SO ORDERED:



PAUL A. CROTTY
United States District Judge

Dated: September 15, 2015
New York, New York